

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 97-0253

Sales and Use Taxes

Calendar Years 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, and 1996

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Notice

Authority: IC 6-8.1-5-1(a); 45 IAC 15-5-1

Taxpayer protests the assessments that were based upon best information available.

STATEMENT OF FACTS

Taxpayer, located in Ohio, manufactures and installs building signs. An audit was completed on January 21, 1997 based upon best information available as the taxpayer supplied the auditor with only seven invoices for 1995. The auditor projected these sales to the other years. Taxpayer protests and states that these sales are not representative of sales made to entities in Indiana over the ten (10) year period.

The department returned the audit to the auditor per taxpayer representative's request to obtain additional information on June 16, 1997. Auditor states it had received additional information from the taxpayer's representative on August 8, 1997 which would necessitate adjustment to the audit. On September 15, 1997 the auditor provided the taxpayer's representative with the workpapers for the actual results. On October 13, 1997 the representative indicated to the auditor that the taxpayer would sign a withdrawal of the protest for the sales use tax audit. The file was returned to the Legal Division on November 20, 1997 without a withdrawal as the taxpayer failed to produce either a response or a letter to withdraw the protest after numerous follow-up calls.

On July 17, 1998 a letter advising the taxpayer that a hearing was scheduled for August 17, 1998 was mailed. Taxpayer representative called the hearing officer on August 13, 1998 and stated that

the auditor had agreed to supplement the audit.

The auditor had agreed to supplement the sales/use tax audit from \$14,876 to \$1,845.72 plus \$1,487.60 for 1996. The hearing officer asked the representative, in a letter dated August 14, 1998, to provide detail to reduce 1996 or the department would assume the original amount to be correct. The representative called and stated there were no sales in 1996 but has not provided detail. In a letter dated September 28, 1998, the representative was advised that the files would be based upon information contained in the file and an informal letter of finding issued.

Taxpayer has not provided additional evidence that the proposed adjustment is in error. However, the hearing officer has determined that the best information assessment for 1996 will be adjusted to an average.

I. **Tax Administration** – Notice

DISCUSSION

At issue is whether the taxpayer's best information audit should be adjusted.

Taxpayer, in numerous attempts to rectify the best information audit, had failed to supply information to warrant an adjustment to the liabilities. Auditor in her last attempt has arrived at a reduction of the assessment for all years of the audit with the exception of 1996, which she believes should remain at the original best information amount.

Taxpayer states there were no sales in 1996 but has not provided proof or detail. In a letter dated September 28, 1998, the taxpayer was asked to provide a written statement that no Indiana sales for 1996 were made, that they agree with the adjustments and that the files are to be withdrawn from the protest procedure. Taxpayer was advised that upon receipt of the letter, the audit would be supplemented, the files withdrawn from the protest procedure and adjusted billings issued the client.

Since no further information has been received, the department will adjust the audit from its original to a tax of \$1, 845.72 for calendar years 1987 through 1995 and for 1996 replace the original best information amount to an average of the seven (7) years assessed to \$ 263.67.

FINDING

Taxpayer's protest is sustained in part and denied in part. The best information audit is adjusted to actual for calendar years 1987 through 1995 and to an average for 1996.